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11 Proposed Plaintiffs' Co-Lead Counsel

12  
13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**  
15

16 **PAUL MEOLA**, individually, and on  
17 behalf of himself and all others similarly  
18 situated,

19 Plaintiff,

20 vs.

21 **AXA FINANCIAL, INC.; AXA**  
**ADVISORS, LLC; AXA EQUITABLE**  
22 **LIFE INSURANCE CO.; and DOES 1**  
through 10, inclusive,

23 Defendants.  
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**No. C06-04291-JSW**

**CLASS ACTION**

**STIPULATION AND**  
**[PROPOSED] PRETRIAL**  
**ORDER NO. 1**

Date: November 30, 2007

Time: 9:00 a.m.

Courtroom: 2

Hon. Jeffrey S. White

**CARLTON M. LENNON**, individually, and  
on behalf of all other members of the general  
public similarly situated, **JAMES L.  
THOMPSON**, individually, and on behalf of  
all other members of the general public  
similarly situated,

Plaintiffs,

vs.

**AXA ADVISORS, LLC; AXA  
NETWORK, LLC**; and DOES 1 through 20,  
inclusive,

Defendants.

**No. 07-01858 JSW**

**ANTHONY BOLEA**, on behalf of himself  
and all others similarly situated,

Plaintiff,

vs.

**AXA ADVISORS, LLC and AXA  
EQUITABLE LIFE INSURANCE CO.**,

Defendants.

**No. C07-02777 JSW**

**HARKANT DHRUV**, on behalf of himself  
and all others similarly situated,

Plaintiff,

vs.

**AXA EQUITABLE LIFE INSURANCE  
CO.**, et al.

Defendants.

**No. C07-04368-JSW**

WHEREAS, the above-captioned actions (the “Overtime Actions”) allege violations of the FLSA and/or various state labor laws, and such actions involve common questions of law and fact;

WHEREAS, the parties agree and the Court has determined that formal consolidation of the Overtime Actions and organization of Counsel for Plaintiffs is appropriate as consistent with the recommendations for the *Manual for Complex Litigation – Fourth* (2004) (the “Manual”);

NOW, THEREFORE, THE COURT ORDERS as follows:

**I. CONSOLIDATION OF THE RELATED ACTIONS**

1. The above-captioned Overtime Actions now pending are hereby consolidated pursuant to Fed. R. Civ. P. 42(a) (“Consolidated Action”). They shall be referred to collectively as *In Re AXA Overtime Litigation*, Master File No. 06-04291. If any party believes at any time that any other case should be consolidated with this Consolidated Action, that case should be brought to the attention of the Court for a ruling on consolidation.

**II. CAPTION OF CASES**

2. Every pleading filed in the Consolidated Action shall bear the following caption:

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE AXA WAGE AND HOUR LITIGATION	}	Case No. C 06 04291-JSW
	}	Hon. Jeffrey S. White
_____	}	

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**III. MASTER DOCKET**

3. A Master Docket is hereby established for the Consolidated Action, including actions subsequently consolidated herein pursuant to this Order. Entries in said Master Docket shall be applicable to the Consolidated Action, and entries shall be made therein in accordance with the regular procedures of the Clerk of this Court, except as modified by this Order.

**IV. MASTER FILE AND SEPARATE ACTION FILES**

4. A Master File is hereby established for the consolidated proceedings in the Consolidated Action. The Master File shall be Civil Action No. 06-04291-JSW. The original of this Order shall be filed by the Clerk in the Master File herein established. The Clerk shall maintain a separate file for each of the Consolidated Actions and filings shall be made in accordance with the regular procedures of the Clerk of this Court, except as modified by this Order. The Clerk shall file a copy of this Order in each such separate file.

**V. NEWLY FILED OR TRANSFERRED ACTIONS**

5. When a case that arises out of the same operative facts as the Consolidated Action is hereinafter filed in or transferred to this Court, it shall be consolidated with these actions as provided in Section I above, and the Clerk of the Court shall:

- (a) File a copy of this Order in the separate file for such action;
- (b) Mail a copy of this Order to the attorneys for the plaintiff(s) in the newly- filed or transferred case and to any new defendant(s) in the newly-filed or transferred case; and
- (c) Make the appropriate entry in the Master Docket.

6. This Court requests the assistance of counsel in calling to the attention of the Clerk of this Court the filing or transfer of any case that might properly be consolidated as part of this litigation.

## **VI. APPLICATION OF THIS ORDER TO SUBSEQUENT CASES**

7. This Order shall apply to each class action assigned to the undersigned claims similar to those set forth in these actions and brought on behalf of employees of AXA Financial, Inc. and its related entities who allege that Defendants failed to pay them overtime compensation. This Order shall apply to each such case which is subsequently filed in or transferred to this Court, and which is assigned to the undersigned, unless a party objecting to the consolidation of that case, or to any other provision of this Order, serves an application for relief from this Order or from any of its provisions within ten (10) days after the date on which the Clerk mails a copy of this Order to the counsel of that party. The provisions of this Order shall apply to such action pending the Court's ruling on the application.

8. Unless a plaintiff in a subsequently filed or transferred case is permitted by the Court to use a separate complaint, Defendants shall not be required to answer, plead, or otherwise move with respect to that complaint. If a plaintiff in any such case is permitted to use a separate complaint, each Defendant shall have twenty (20) days from the date the Court grants such permission within which to answer, plead, or otherwise move with respect to that complaint.

## **VII. ORGANIZATION OF COUNSEL**

9. The Court appoints the following interim Co-Lead Class Counsel for the Consolidated Action pursuant to Rule 23(g)(2)(A) of the Federal Rules of Civil Procedure:

As Co-Lead Counsel for the Class:

**SCHIFFRIN BARROWAY TOPAZ & KESSLER, LLP**  
 280 King of Prussia Road  
 Radnor, PA 19087  
 Telephone: (610) 667-7706  
 Facsimile: (610) 667-7056

&

2125 Oak Grove Road, Suite 120  
Walnut Creek, CA 90067  
Telephone: (925) 945-0200  
Facsimile: (925) 945-8792

**COTCHETT, PITRE & McCARTHY**  
San Francisco Airport Office Center  
840 Malcolm Road, Suite 200  
Burlingame, CA 94010  
Telephone: (650) 697-6000  
Facsimile: (650) 697-0577

10. Co-Lead Class Counsel in the Consolidated Action shall have authority over the following matters on behalf of all plaintiffs in those respective actions: (a) convening meetings of counsel working for the Class; (b) initiating, responding to, scheduling, briefing, and arguing of all motions; (c) determining the scope, order, and conduct of all discovery proceedings; (d) assigning such work assignments to other counsel as they may deem appropriate; (e) retaining experts; (f) designating which attorneys appear at the hearings and conferences with the Court; (g) conducting settlement negotiations with defendants; and (h) other matters concerning the prosecution of or resolution of their respective cases.

11. All Plaintiffs' counsel shall keep contemporaneous time and expense records, and shall provide such records upon request to Co-Lead Class Counsel.

12. Co-Lead Class Counsel shall have authority to communicate with Defendants' counsel and the Court on behalf of the Class. Defendants' counsel may rely on all agreements made with Co-Lead Class Counsel, and such agreements shall be binding.

13. Co-Lead Class Counsel in the Consolidated Action is also charged with administrative matters such as receiving and distributing pleadings, notices, orders, motions and briefs, and advising parties of developments in the case.

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**VIII. COORDINATION**

14. Co-Lead Class Counsel shall coordinate activities to avoid duplication and inefficiency in the filing, serving and/or implementation of pleadings, other court papers, discovery papers, and discovery practice.

**IX. SCOPE OF ORDER**

15. The terms of this Order shall not have the effect of making any person, firm or entity a party to any action in which he, she or it has not been named, served or added as such in accordance with the Federal Rules of Civil Procedure. The terms of this Order and the consolidation ordered herein shall not constitute a waiver by any party of any claims in or defenses to any action.

DATED: October 5, 2007 KERR & WAGSTAFFE LLP

By: /s/ Adrian J. Sawyer  
Adrian J. Sawyer  
Attorneys for Defendants

DATED: October 5, 2007 SCHIFFRIN BARROWAY TOPAZ & KESSLER, LLP

By: /s/ Gerald D. Wells, III  
Gerald D. Wells, III  
Counsel for Plaintiff PAUL MEOLA

DATED: October 5, 2007 INITIATIVE LEGAL GROUP LLP

By: /s/ Joseph Cho  
Joseph Cho (198844)  
Counsel for Plaintiffs CARLTON LENNON  
and JAMES THOMPSON

DATED: October 5, 2007 CARLSON LYNCH

By: /s/ Gary F. Lynch  
Gary F. Lynch  
Counsel for Plaintiff ANTHONY BOLEA

1 DATED: October 5, 2007 COTCHETT, PITRE & McCARTHY

2  
3 By: /s/ Niall P. McCarthy  
4 Niall P. McCarthy  
Counsel for Plaintiff HARKANT DHRUV

5  
6 SO ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2007.

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8 Hon. Jeffrey S. White  
9 United States District Court  
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